



IN THE US PATENT AND TRADEMARK OFFICE

Applicants: Rainer LUDWIG
Title : MONITORING DEVICE
Serial No.: 09/758 513
Filed : Jan. 11, 2001

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MS Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANTS' REPLY BRIEF

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Dear Sir:

This Reply brief is in response to the Examiner's Answer mailed December 11, 2003.

FIRST REPLY TO GROUNDS OF REJECTION:

On page 4 of the Grounds of Rejection section of the Examiner's Answer, the examiner states that the Huber US Patent 6 130 516 discloses a seal between the checking element and the housing and refers to the shaded area between reference numerals 28 and 30 of reproduced Figure 1 of the Huber patent on page 7 of the Answer. The examiner alleges that the shaded-area seal abuts on the checking element 32, 34 and on the housing 16. In fact, the shaded area between reference numerals 28, 30 is the so-called face-sided cover of the housing 16.

On page 5 of the Grounds of Rejection section of the Examiner's Answer, the examiner defines the face-sided cover of the housing 16 as a seal that abuts the checking element 32, 34 and the end face of housing 16 such that a seal abuts on a seal according to the examiner's arguments.

These arguments of the examiner are believed to be patently incorrect and contradictory in the context of the Huber patent.

As pointed out in previously submitted Appellant's Appeal Brief, the Huber patent expressly discloses that the area between reference numerals 28, 30 is the face-sided cover of the housing 16 referred to in the Huber patent and makes no disclosure whatsoever that the face-sided cover abuts the checking element 32, 34. Contrary to the examiner's arguments, the Huber US Patent 6 130 516 does not disclose that the area between seals 28, 30 is a seal that abuts the checking element 32, 34.

SECOND REPLY TO GROUNDS OF REJECTION:

On page 7 of the Grounds of Rejection section of the Examiner's Answer, the examiner states that the surface labelled as A (surface of the checking element) "obviously touches" the surface labelled B (surface of the end face of the housing) of the reproduced Figure 1 of the Huber patent. This is believed to be patently incorrect and not disclosed by the Huber patent.

The Huber US Patent 6 130 516 states that the double lip seal 28 seals the passage of the shaft 26 through the face-sided cover of the housing against chips and coolant (see column 2, lines 64-66). The patent further states that O-ring seals 30 seal the respective face-sided cover of the cylindrical housing 16 (column 2, line 67 continued through column 3). What the examiner calls a seal in the reproduced Figure 1 on page 7 of the examiner's Answer is indeed the face-sided cover of the cylindrical housing 16.

The Huber patent further states that a pin holder 32 is clamped via a screw 36 on the stump of the shaft 26 that projects beyond the housing 16 (column 3, lines 1-3). The Huber patent does not disclose that any type of element is arranged between the pin holder 32 and the face-sided cover of the housing 16. Nothing is disclosed in the Huber patent about any type of element abutting the face-sided cover of the housing 16 and the pin holder 32.

The conclusion of the examiner that surface B of the face-sided cover of the housing 16 "obviously touches" the surface A of the pin holder 32 can only be reached by hindsight and even then is incorrect. Such an abutting would be for the device of the Huber patent a nonsensical feature since metal parts would then move on each other with corresponding friction. This friction would make control of the movement of the pin holder 32 unfeasible. The examiner's conclusion that surfaces A, B "obviously touch" is incorrect and not supported by the Huber patent.

Applicants respectfully request entry of this Reply Brief in order to have all of the pending issues reviewed by the Board.

The Commissioner is hereby authorized to charge any fee which may be required by this paper, or credit any overpayment, to Deposit Account No. 20-1124.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Edward J. Timmer', written in dark ink.

Edward J. Timmer

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